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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/864,608
Filing Date: May 23, 2001
Appellant(s): BRITTENHAM ET AL.

Scott C. Hatfield
Registration No. 38,176
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 16, 2008 appealing from the Office action mailed April 20, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The Examiner relied upon Dugan et al., U.S. Patent No. 6,363,411, Onyeabor, U.S. Patent No. 6,631,512, and Robotham et al., U.S. Patent No. 6,704,024.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 and 14-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan et al., U.S. Patent No. 6,363,411, in view of Onyeabor, U.S. Patent No. 6,631,512.

Dugan teaches the invention as claimed including an Intelligent Network architecture including a novel central administration and resource management system for administering and tracking service resources to a plurality of service nodes capable of telecommunications service processing (see abstract).

Regarding claims 1, 18, and 19, Dugan teaches a method, system, and computer program product for dynamically redeploying services in a computing network, comprising:

receiving a redeployment trigger for a selected service (col. 20, lines 14-19, col. 21, lines 1-7, Dugan discloses a service to be deployed and receiving a redeployment trigger);

determining one or more network locations where the selected service has been deployed from its original location at an origin server (col. 20, lines 14-19, Dugan discloses the tracking of capabilities of each service node);

programmatically removing the selected service from the network locations and the origin server (col. 20, lines 20-26, Dugan discloses service removal); and

programmatically replacing the selected service at the network locations and the origin server (col. 20, lines 19-26, Dugan discloses the deployment of data).

Dugan fails to teach the limitation further including the use of a selected web service wherein the selected web service includes executable code.

However, Onyeabor teaches Web page development, deployment, and execution conducive to database access and manipulation over the Internet (see abstract). Onyeabor teaches the use of the deployment of a web page with that web page including executable code (col. 6, lines 14-20, col. 16, lines 35-44).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dugan in view of Onyeabor to use a selected web service wherein the selected web service includes executable code. One would be motivated to do so

because the deployment and redeployment of web pages is an efficient way of sending and updating of them and the use of executable code on the web pages virtually eliminates the risk that malicious code will be downloaded (column 16, lines 35-44, col. 6, lines 19-20).

Regarding claims 2, 20, and 21, Dugan and Onyeabor teach the method, system, and computer program product according to claims 1, 18, and 19, wherein the redeployment trigger comprises a redeployment request from the origin server (Dugan, col. 20, lines 14-19, column 20, lines 66 – column 21, line 7).

Regarding claims 3, 22, and 23, Dugan and Onyeabor teach the method, system, and computer program product according to claims 1, 18, and 19 further comprising:

 sending the redeployment trigger when the selected web service including the executable code is to be revised (col. 20, lines 14-26, column 20, lines 66 – column 21, line 7, col. 13, lines 56-61, Dugan discloses deployment when components have been successfully tested and configured, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 4, Dugan and Onyeabor teach the method according to claim 1, further comprising:

 receiving client requests for the selected web service (col. 13, lines 26-40, Dugan discloses a user requesting service);

serving the received requests from the network locations prior to receiving the redeployment trigger (Dugan, col. 13, lines 26-40, col. 20, lines 14-26); and

serving the received requests using the replaced web service after programmatically removing the selected web service and programmatically replacing the selected web service (Dugan, col. 13, lines 26-40, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 5, Dugan and Onyeabor teach the method according to claim 1, further comprising:

unpublishing the selected web service after receiving the redeployment trigger until completion of programmatically removing the selected web service and programmatically replacing the selected web service, and then republishing the selected web service thereafter (col. 20, lines 14-45, Dugan discloses service node profiles, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 6, Dugan and Onyeabor teach the method according to claim 2, further comprising:

sending a subsequent redeployment request to each of the network locations, responsive to receiving the redeployment request from the origin server (Dugan, col. 20, lines 14-26).

Regarding claim 7, Dugan and Onyeabor teach the method according to claim 6, wherein programmatically removing the selected web service further comprises:

receiving the subsequent redeployment request at a selected one of the network locations (Dugan, col. 20, lines 14-26);

programmatically shutting down the selected web service at the selected one, responsive to receiving the subsequent redeployment request (Dugan, col. 22, lines 44-67, Dugan discloses service data being deactivated, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44); and

programmatically removing the executable code which implements the selected web service from a run-time environment of the selected one, subsequent to the programmatically shutting down (Dugan, col. 20, lines 14-26, col. 22, lines 44-67, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 8, Dugan and Onyeabor teach the method according to claim 6, wherein programmatically replacing the selected web service further comprises:

issuing a deployment request for the selected web service from a selected one of the network locations (Dugan, col. 20, lines 14-26);

receiving a response message at the selected one of the network locations the response message containing a replacement for the selected web service (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44); and

deploying the replacement for the selected web service at the selected one of the network locations (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 9, Dugan and Onyeabor teach the method according to claim 8, wherein the deployment request comprises a web service description of the selected web service encoded in a standardized web service description notation (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 10, Dugan and Onyeabor teach the method according to claim 9, wherein the web service description comprises an interface definition of a dynamic deployment web service and an implementation definition of the dynamic deployment web service (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 11, Dugan and Onyeabor teach the method according to claim 10 wherein the dynamic deployment web service resides on the origin server (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 14, Dugan and Onyeabor teach the method according to claim 11, wherein the issued deployment request identifies the selected web service (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 15, Dugan and Onyeabor teach the method according to claim 11, wherein the issued deployment request provides information about run-time conditions on the selected one of the network locations (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 16, Dugan and Onyeabor teach the method according to claim 8, wherein the replacement comprises executable code (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claim 17, Dugan and Onyeabor teach the method according to claim 16, wherein the executable code is automatically adapted to the run-time conditions on the selected one of the network locations (Dugan, col. 20, lines 14-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claims 24, 26, and 28, Dugan and Onyeabor teach the method, system, and computer program product according to claims 1, 18, and 19:

wherein determining one or more network locations where the selected web service has been deployed includes determining all of the network locations where the selected web service has been deployed;

wherein programmatically removing the selected web service from the network locations includes programmatically removing the selected web service from all of the network location where the web service has been deployed; and

wherein programmatically replacing the selected web service at the network locations includes programmatically replacing the selected web service at all of the network locations where the web service has been deployed (Dugan, col. 20, lines 14-25, col. 21, lines 1-7, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

Regarding claims 25, 27, and 29, Dugan and Onyeabor teach the method, system, and computer program product according to claims 1, 18, and 19, wherein programmatically replacing the selected web service including updated executable code (Dugan, col. 20, lines 19-26, Onyeabor, col. 6, lines 14-20, col. 16, lines 35-44).

3. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan and Onyeabor further in view of Robotham et al., U.S. Patent No. 6,704,024.

Dugan teaches the invention substantially as claimed including an Intelligent Network architecture including a novel central administration and resource management system for administering and tracking service resources to a plurality of service nodes capable of telecommunications service processing (see abstract). Dugan teaches the invention substantially as claimed including a Web page development, deployment, and

execution conducive to database access and manipulation over the Internet (see abstract).

As to claims 12 and 13, Dugan and Onyeabor teach the method of claim 11.

Dugan and Onyeabor fail to teach the limitation further including the method according to claim 11 wherein the issued deployment request comprises a SOAP ("Simple Object Access Protocol") request and a XML ("Extensible Markup Language") protocol request.

However, Robotham teaches a method for rendering and transforming visual content on a server system based on the display attributes of a client device, and transmitting the transformed visual content for display on a client device with respect to related browsing data (see abstract). Robotham teaches the use of SOAP and XML (col. 17, lines 10-15, lines 53-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dugan and Onyeabor in view of Robotham to use SOAP and XML for requests. One would be motivated to do so because both are well known in the art for application integration, as shown in the specification.

(10) Response to Argument

The Examiner summarizes the various points raised by the Appellant and addresses replies individually.

Section I of the arguments set forth in the Appeal Brief are an introduction to 103 analysis. Accordingly, there are no arguments for the Examiner to respond to with respect to this section of the Appeal Brief.

With regards to section II. A. of the appeal brief, the Appellant argues that the combination of Dugan and Onyeabor does not disclose removing a selected web service including executable code in a computing network, replacing a selected web service, and a redeployment trigger, as found in independent claims 1, 18, and 19.

In response, the Examiner respectfully disagrees:

The Appellant argues each reference separately and does not view the rejection as a combination of two references. The rejection of claims 1, 18, and 19 is a combination of Dugan and Onyeabor. The selected web service found in the claims is rejected by the combination of Dugan and Onyeabor. The Appellant only argues that Dugan does not disclose the selected web service, when that is clearly not how the limitation is rejected. As seen in the rejection, Dugan discloses a selected service on column 20, lines 14-26 and column 21, lines 1-7. The rejection states that Dugan fails to teach the limitation further including the use of a selected web service and that this limitation is found in Onyeabor. On column 6, lines 14-20 and column 16, lines 35-44, Onyeabor discloses the deployment of a web page. The web aspect of the claimed invention is found in Onyeabor, not Dugan. The combination of Dugan and Onyeabor teaches a selected web service.

The Appellant also argues that Onyeabor fails to teach or suggest removing a selected web service including executable code, replacing the selected web service, and receiving a redeployment trigger. The first two limitations in question are taught by the combination of Dugan and Onyeabor and the third limitation in question is taught solely by Dugan. Thus, the Appellant focuses on a rejection of the limitations which was not applied. Regardless, the Examiner will clarify the issue for the board concerning each limitation. The selected web service portion of the limitations was explained in the previous paragraph, so the Examiner will focus on the remaining portions of the limitations. The removal and replacing of the selected service can be found in Dugan on column 20, lines 19-26 where there is a service removal and a deployment of data. A web service including executable code is found in column 6, lines 14-20 of Onyeabor, where a Web page document includes executable code. Dugan discloses receiving a redeployment trigger, on column 20, lines 66 – column 21, line 7, where an attempted distribution of service fails, the Service Administration system retries/redeploys the data distribution. The trigger that is received, and causes the redeployment, is the distribution failure. The failure of distribution is an event and as defined in the specification, an event is considered to be a trigger. Regardless, the claim is not specific as to what qualifies a trigger. In addition, column 17, lines 6-16, discloses a service being replaced with a new version, which would inherently need a trigger for the replacement/redeployment to work, and column 22, lines 32-46, discloses data that is activated, which is a trigger, to replace existing data in the network. These columns also show that Dugan clearly discloses receiving a redeployment trigger.

In response to the Appellant's arguments that there is no motivation to combine the references; Onyeabor teaches a useful motivation. On column 16, lines 35-44, Onyeabor teaches that the deployment of web pages is an efficient way of sending and updating of them and on column 6, lines 19-20, Onyeabor teaches that using a web page document, which includes executable code, virtually eliminates the risk that malicious code will be downloaded. These two portions show why it would be obvious and useful to combine Dugan and Onyeabor for deployment and redeployment of selected web services. Both references are similar in that they are involved in networking.

The Appellant refers to a rejection in the Advisory Action regarding a section that was not rejected since it was in the preamble. That rejection was used in error and it is clear that "web services in a computing network" are throughout the claim, and not just in the preamble. Regardless, web pages in a computing network are shown to be in Onyeabor, which is proven in the previous paragraphs. The recitations in the preamble were given patentable weight and were properly rejected with the combination of Dugan and Onyeabor.

With regards to section II. B. i. of the appeal brief, the Appellant argues that the combination of Dugan and Onyeabor does not disclose a redeployment triggers that comprises a redeployment request from the origin server, as found in dependent claims 2, 20, and 21.

In response, the Examiner respectfully disagrees:

Dugan discloses receiving a redeployment trigger, on column 20, lines 66 – column 21, line 7, where an attempted distribution of service fails, the Service Administration system retries/redeploys the data distribution. The trigger that is received, and causes the redeployment, is the distribution failure. The failure of distribution is an event and as defined in the specification, an event is considered to be a trigger. This failure occurs on the origin server. Regardless, the claim is not specific as to what qualifies a trigger. In addition, column 17, lines 6-16, discloses a service being replaced with a new version, which would inherently need a trigger, which requests a redeployment from the origin server, for the replacement/redeployment to work. Also column 22, lines 32-46, discloses data that is activated, which is a trigger, by the origin server, to replace existing data in the network. These columns also show that Dugan clearly discloses receiving a redeployment trigger wherein the trigger comprises a redeployment request from the origin server.

With regards to section II. B. ii. of the appeal brief, the Appellant argues that the combination of Dugan and Onyeabor does not disclose sending the redeployment trigger when the selected web service is to be revised, as found in dependent claims 3, 22, and 23.

In response, the Examiner respectfully disagrees:

The Appellant mainly argues that Dugan does not disclose sending a redeployment trigger when a service is revised. This has been already shown in that, Dugan discloses sending a redeployment trigger, on column 20, lines 66 – column 21,

line 7, where an attempted distribution of service fails, the Service Administration system retries/redeploys the data distribution. The trigger that is sent, and causes the redeployment, is the distribution failure. The failure of distribution is an event and as defined in the specification, an event is considered to be a trigger. This failure occurs on the origin server. Regardless, the claim is not specific as to what qualifies a trigger. In addition, column 17, lines 6-16, discloses a service being replaced/revised with a new version, which would inherently need a trigger for the replacement/redeployment to work, and column 22, lines 32-46, discloses data that is activated, which is a trigger, to replace existing data in the network. These columns also show that Dugan clearly discloses sending a redeployment trigger when a service is revised. The use of a web service is found in Onyeabor as shown in the response to section II. A.

With regards to section II. B.iii. of the appeal brief, the Appellant argues that the combination of Dugan and Onyeabor does not disclose the limitations found in dependent claims 24, 26, and 28.

In response, the Examiner respectfully disagrees:

The Appellant only argues the arts, Dugan and Onyeabor, separately and fails to acknowledge the combination. The Board's attention is directed to the response to section II. A., regarding the combination of Dugan and Onyeabor.

With regards to section II. B. iv. of the appeal brief, the Appellant argues that Dugan does not disclose programmatically replacing the selected web service including updated executable code, as found in dependent claims 25, 27, and 29.

In response, the Examiner respectfully disagrees:

The Appellant only argues that Dugan does not disclose claims 25, 27, and 29. The majority of claims 25, 27, and 29 is found in Onyeabor. These claims are dependent upon claims 1, 18, and 19 and are thus rejected under Dugan and Onyeabor as well. The Examiner has clarified the rejection regarding this portion, which shows that Onyeabor teaches the majority of this limitation in column 6, lines 14-20 and column 16, lines 35-44.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Avi Gold

/Avi Gold/

Examiner, Art Unit 2157

Conferees:

Art Unit: 2155

/saleh najjar/

Supervisory Patent Examiner, Art Unit 2155

/Ario Etienne/

Supervisory Patent Examiner, Art Unit 2157